

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOHAMED MOSHRIF,)
Petitioner,) CASE NO. C12-1249-RSL-MAT
v.)
SNOHOMISH COUNTY CORRECTIONS) ORDER DENYING MOTION TO
and SNOHOMISH COUNTY SHERIFF'S) REQUEST HEARING AND
DEPARTMENT,) DIRECTING PETITIONER TO
Respondents.) SHOW CAUSE

Petitioner, proceeding *pro se*, submitted a 28 U.S.C. § 2254 habeas corpus petition.

(Dkt. 8.) He seeks to challenge a May 23, 2012 conviction for violations of no contact/protection orders. Petitioner also filed a motion requesting a hearing in this matter.

(Dkt. 13.) However, for the reasons explained below, it appears that this habeas petition is subject to dismissal.

“An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has

01 exhausted the remedies available in the courts of the State.” 28 U.S.C. § 2254(b)(1)(A). The
 02 exhaustion requirement “is designed to give the state courts a full and fair opportunity to
 03 resolve federal constitutional claims before those claims are presented to the federal courts,”
 04 and, therefore, requires “state prisoners [to] give the state courts one full opportunity to resolve
 05 any constitutional issues by invoking one complete round of the State’s established appellate
 06 review process.” *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999). A complete round of the
 07 state’s established review process includes presentation of a petitioner’s claims to the state’s
 08 highest court. *James v. Borg*, 24 F.3d 20, 24 (9th Cir. 1994). Here, petitioner concedes he has
 09 not yet sought any relief in state court. (*See* Dkt. 8 at 2-4.) Accordingly, petitioner may not at
 10 this time pursue habeas relief in this Court.¹

11 The Court also identifies another deficiency in the petition. Neither Snohomish
 12 County Corrections, nor Snohomish County Sheriff’s Department is a proper respondent. A
 13 petitioner for habeas corpus relief must name the state officer having custody of him or her as
 14 the respondent to the petition. *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004); *Stanley v.*
 15 *California Supreme Court*, 21 F.3d 359, 360 (9th Cir. 1994). That person typically is the
 16 warden of the facility in which the petitioner is incarcerated. *Id.* Failure to name the
 17 petitioner’s custodian deprives federal courts of personal jurisdiction. *Stanley*, 21 F.3d at 360.
 18 As such, if petitioner were able to establish exhaustion, he would have to identify a proper
 19 respondent in order to pursue this case.

20 Given the above, petitioner’s Motion to Request Hearing (Dkt. 13) is DENIED and

21 1 Petitioner should inquire into any state court deadlines relating to the conviction at issue.
 22 The Court notes that, for example, a state court petition for collateral attack on a judgment and sentence
 in a criminal case must be filed within one year after the judgment becomes final. RCW 10.73.090(1).

01 petitioner is hereby ORDERED to show cause, within **forty-five (45) days** of the date of this
02 Order, why his petition should not be dismissed without prejudice. The Clerk is directed to
03 send a copy of this Order to petitioner and to the Honorable Robert S. Lasnik.

04 DATED this 30th day of August, 2012.

05 
06

07 Mary Alice Theiler
08 United States Magistrate Judge
09
10
11
12
13
14
15
16
17
18
19
20
21
22